United Nations CEDAW/C/BRN/Q/1-2

Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

List of issues and questions in relation to the combined initial and second periodic reports of Brunei Darussalam*

General

1. It is indicated in the report (CEDAW/C/BRN/1-2, paras. 3.3.1 and 3.3.2)[1] that the State party works closely with non-governmental organizations (NGOs) on issues involving women's rights. Please explain whether and to what extent NGOs, in particular women's organizations, were involved in and consulted during the preparation of the report. Please also provide information on laws regulating the registration of NGOs and explain whether there is a conducive environment for NGOs in the State party.

Declaration and reservations

2. Please provide updated information on the efforts of the State party to review its declaration and reservations to the Convention, with a view to withdrawing them and/or narrowing their scope. Please also indicate whether the State party has consulted other countries with similar social, cultural and legal systems that have succeeded in withdrawing and/or considerably narrowing their reservations to the Convention.

Constitutional, legislative and institutional framework

3. It is indicated in the report that the State party recognizes the importance of promoting and protecting the rights of women (part I, para. 3.1.2). However, the Government of Brunei Darussalam enacted the Syariah Penal Code Order 2013 in October 2013, which contains provisions that discriminate against women. Please provide information on whether a review and revision of the Syariah Penal Code Order 2013 is envisaged with a view to repealing all discriminatory provisions. Please also provide information on the steps taken to harmonize the legal system of

* Adopted by the pre-sessional working group for the fifty-ninth session, meeting from 3 to 7 March 2014.

[1] Unless otherwise indicated, paragraph numbers refer to the combined initial and second periodic reports of the State party.

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the State party with international human rights standards and, in particular, with the provisions of the Convention.

Legal status of the Convention

4. Please provide information on the status of the Convention in the domestic legal order, including whether the provisions of the Convention prevail over constitutional and other legal provisions. Please indicate whether the Convention is directly applicable in the State party and whether there are any cases where it has been invoked in or directly applied by the courts. Please also provide information on measures taken to disseminate and give visibility to the Convention.

Definition of discrimination

5. It is acknowledged in the report (part II, para. 1.1) that there is no clear definition of the term "discrimination against women". Please indicate whether the State party envisages adopting legislation that defines and prohibits discrimination against women, in line with article 1 of the Convention.

Temporary special measures

6. While it is indicated in the report that women in the State party have always been and will continue to be given equal opportunities in all aspects of life, including education, employment and business (part II, para. 4.1), no mention is made of the use of temporary special measures. Please provide information on the use and adoption by the State party of temporary special measures, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25, so as to promote and accelerate the realization of substantive equality of women and men.

Stereotypes and harmful practices

7. The persistence of gender stereotypes in the country is acknowledged in the report (part II, para. 5.1.1). However, little information is provided on the prevalence and impact of such negative stereotypes and on the measures taken by the State party to eliminate stereotypes that underpin traditional patriarchal attitudes and reinforce women's subordination in society. Please provide information on the efforts undertaken, through awareness-raising and educational campaigns addressing religious and community leaders, parents and teachers, to counter stereotypical attitudes towards women and girls, including those who experience multiple forms of discrimination on the basis of their age, disability, ethnicity or other characteristic.

Violence against women

8. Mention is made in the report of various laws and orders (such as the Islamic Family Law Order 2000, the Married Women Act and the Women and Girls Protection Act) that address violence against women. However, there is no indication of whether the State party is planning to adopt legislation specifically criminalizing all forms of violence against women. Please provide information on any specific steps taken to adopt such legislation.

9. According to the exception under article 375 of the Penal Code, sexual intercourse by a man with his own wife, the wife not being under 13 years of age, is not rape. Please explain this exception, which is incompatible with the Convention, and indicate whether the repeal of article 375 so as to criminalize all acts of rape without exception and irrespective of the marital status and age of the victim is envisaged. Please also provide information on steps taken to remove obstacles in reporting cases of violence against women (part II, para. 3.7.6).

Trafficking in women and exploitation of prostitution

10. It is indicated in the report that the issue of trafficking in women and girls and exploitation of prostitution is governed by three different laws (part II, para. 6.1.1). Please provide detailed information on differences regarding the application and implementation of the laws for trafficking in women and girls and exploitation of prostitution, in addition to detailed statistical data on the number of complaints received on trafficking in women and exploitation of prostitution and on investigations, prosecutions, convictions and penalties imposed on the perpetrators of such crimes. Please also provide information on whether the State party is establishing procedures for the identification and protection of victims.

Participation in political and public life and at the international level

11. It is stated in the report (part II, para. 7.6) that women and men in the State party have equal voting rights in the election of village leaders and opportunities to participate in nation building. Please indicate whether women are eligible to vote and to be candidates for all elections in the State party on an equal basis with men. Please provide updated sex-disaggregated data on the percentage of women elected or nominated in the State Legislative Council, as well as women ministers. Please also provide information on specific measures, including temporary special measures, taken by the State party to promote women's participation in political and public life at all levels, in particular in the judiciary and in senior positions and in the foreign service, including as ambassadors and heads of missions abroad.

Nationality

12. Under the Brunei Nationality Act (chap. 15), Bruneian women cannot transmit their nationality to their foreign husband and children on an equal basis with Brunei men married to foreign nationals. Please indicate under what conditions children of women citizens married to foreign nationals may be accorded Brunei citizenship under the Nationality Act. Please provide information on measures taken and/or envisaged to amend the Nationality Act to ensure that women and men have equal rights with regard to nationality, and to withdraw the reservation to article 9 (2) of the Convention. Please also indicate whether the State party is consulting countries with similar social, cultural and legal systems that have succeeded in bringing their legislation on nationality in conformity with the Convention.

Education

13. The report is silent on the number and situation of girls who drop out of school. Please provide updated information on the rates of girls who drop out because of early marriage and early pregnancy. Please also indicate whether the State party provides training to teachers to raise awareness of the ways in which

their attitudes and behaviour, and the portrayal of discriminatory stereotypes in teaching materials, reproduce traditional patriarchal norms and have a negative impact on women and girls and on their full enjoyment of their human rights.

Health

14. The report does not provide information on the availability of safe abortions and of modern methods of contraception to women. It is indicated (part II, para. 12.12.1) that the Maternal and Child Service provides a comprehensive health screening for women between 38 and 65 years of age. Please indicate whether abortion is criminalized in the State party and under what circumstances safe abortion is available to women. Please also indicate whether women and men have equal access to health-care services and whether women require their husband's or legal guardian's authorization, in law or in practice, to receive health-care services, including family planning and other reproductive health-care services.

Disadvantaged groups of women

15. It is indicated in the report (part II, para. 18.1.1.iv) that, at the time of the preparation of the report, the State party was considering a draft disability order. Please provide updated information on its current status and whether it is gender sensitive, and information on the situation of women with disabilities, in particular in rural areas, especially with regard to their access to health-care services, education and social protection.

16. The report is silent on the situation of women migrant workers. Please provide information on the working conditions and legal protection of women migrant workers, including domestic workers, and on their access to justice, health and social protection. Pursuant to section 111 of Employment Order 2009, which gives discretionary power to the Minister, please provide information on specific regulations made by the Minister for the benefit of domestic workers and details of provisions of the Order that are applicable to domestic workers.

Marriage and family relations

17. It is indicated in the report (part II, para. 16.2.4) that the Islamic Family Law Order 2000 authorizes a Muslim woman to dissolve the marriage on the ground of conflict between the spouses, and that a woman is entitled to her share in the matrimonial property at the time of divorce or the husband's death. Please provide information on whether women have equal rights with men to divorce and whether the provisions governing the division of property upon dissolution of marriage are in line with article 16 (1) of the Convention and the Committee's general recommendation No. 29. It is also indicated in the report (part II, para. 16.2.5) that the Order gives priority to mothers for the custody of children if they fulfil the conditions and qualifications stipulated there. Please stipulate what the required conditions and qualifications are for the award of custody to the mother.

18. It is indicated in the report (part II, para. 16.1.2) that there are differences in the minimum age of marriage for different groups of girls (Muslims, Hindus, Buddhists, Dayaks and Chinese) and that, in all cases, the minimum age is below 18 years, which is contrary to article 16 (2) of the Convention, the Committee's general recommendation No. 21 and the Convention on the Rights of the Child. Please provide information on measures taken to increase the minimum age of

marriage for women and men to 18 years, to harmonize the different laws on marriage and family relations with the Convention and to eliminate the practice of child and forced marriages.

19. The report is silent on the issue of polygamy in the State party. Please indicate whether polygamy is permitted, in law or in practice, and provide information and data on the prevalence of polygamy in the State party.

Optional Protocol and amendment to article 20 (1)

20. Please indicate any progress made towards accession to the Optional Protocol to the Convention. Please also indicate what progress has been made towards the acceptance of the amendment to article 20 (1), of the Convention, relating to the Committee's meeting time.